

Planning Commission Date: September 24, 2003

Item No.

*5

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearings

Project Planner: Kim Duncan

Public Hearing: Yes: X No:

Notices Mailed On: 9-12-03 Published On: 9-11-03 Posted On: 9-12-03

TITLE: USE PERMIT AMENDMENT NO. P-UA2003-14; "S"-ZONE APPROVAL AMENDMENT NO. P-SA2003-101

Proposal: Request to expand the Banana Leaf restaurant into an adjacent 1,100 square foot tenant space and increase indoor and outdoor seating without adding 17 required parking spaces.

Location: 182 Ranch Drive (APN 022-54-011)

RECOMMENDATION: Approval with conditions

Applicant: Kay Tan, 182 Ranch Drive, Milpitas, CA 95035

Property Owner: First Creekside Associates, PO Box 1067, San Ramon, CA 94583

Previous Action(s): Use Permit No. 1418, Use Permit Amendments, "S" Zone Approval and Amendments

General Plan Designation: General Commercial

Present Zoning: General Commercial ("C2-S")

Existing Land Use: Multi-tenant shopping center

Agenda Sent To: Applicant & Owner

Attachments: Site Plan, letter from applicant dated September 15, 2003, parking study, Resolution 449 (Outdoor Seating), McCarthy Ranch Marketplace Phase II status of excess parking

PJ # 2168

*5

BACKGROUND

On August 3, 1997, the Planning Commission approved Use Permit No. 1418 for a bagel café with 54 seats (34 indoor and 20 outdoor), 96 square foot take-out area, and beer/wine sales for on-site consumption with meals. On April 28, 1999, the Planning Commission approved an amendment to Use Permit No. 1418 to allow an expansion of 107 seats and use of twelve (12) parking stalls from an excess parking pool for the Banana Leaf restaurant. A six-month review by the Planning Commission on December 8, 1999 established conformance of the twenty outdoor seats in front of the restaurant. Subsequently, the Planning Commission approved Use Permit Amendment P-UA2002-1 on February 13, 2002 to expand restaurant seating to 134 seats, apportioned as 104 indoor and 30 outdoor seats, as well as use of 10 parking stalls from the excess parking pool.

Site Description

The McCarthy Ranch Marketplace, Phase II, is located on approximately 16 acres along Ranch Drive, bound to the east by Interstate 880 and south by SR237. Phase II consists of six (6) multi-tenant buildings providing 136,437 square feet of commercial retail space. The Banana Leaf restaurant currently occupies 2,500 square feet of tenant space in a 9,100 square foot building (Building H) on the eastern portion of the site.

The site is zoned General Commercial ("C2"), as are the parcels directly north and northwest of Ranch Drive. These parcels are developed with retail uses, including retail shopping, restaurants and personal services. Surrounding land uses include Light Manufacturing (PG&E substation) southwest of the site and Industrial Park (McCarthy Center Business Park) to the northwest of McCarthy Ranch Shopping Center.

THE APPLICATION/PROJECT DESCRIPTION

This Use Permit application is submitted pursuant to Section 19.03-36 (restaurants as a conditional use in the General Commercial "C2" District), Section 57 (Conditional Use Permits), and Section 42 (Site and Architectural Review) of the Milpitas Zoning Ordinance.

The applicant is requesting approval to expand the existing 2,500 square foot restaurant into an adjacent 1,100 square foot tenant space, increase the total number of seats from 134 to 215 (81 seat increase; apportioned as 168 indoor and 47 outdoor seats), and an exception for 17 required parking spaces. The applicant is also proposing the addition of one (1) new rear and two (2) new front doors, as well as installation of a grease interceptor located at the rear of the building. As depicted on the floor plan, the restaurant space consists of two separate dining areas with bus stations, waiting area, bar area, take-out and cooking area. The 100 square foot bar area will consist of a curved counter with eleven (11) bar stools to serve beer and wine to customers waiting for tables or eating at the bar. No changes in hours of operation are proposed with this application.

Conformance with the General Plan & Zoning Ordinance

The proposed project complies with the City's General Plan in terms of land use. The proposed use does not conflict with any General Plan Principles and Policies, and is consistent with Implementing Policy 2.1-I-3, which encourages economic pursuits that will strengthen and

promote development through stability and balance. It is also consistent with Policy 2.a-I-6, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector.

The proposed project is located in the General Commercial ("C2") District and is permitted conditionally in this district upon approval of a conditional use permit. In addition, the intent of the "C2" district is to include commercial uses which provide a wide range of retail sales and personal business services. This project is consistent with this intent in that it provides retail shoppers the opportunity to dine at restaurant within the shopping center.

ISSUES

Parking

Upon build out of McCarthy Ranch Marketplace Phase II, a total of 917 parking spaces were provided for the shopping center, with 238 of those spaces designated as excess parking to share among parcels. According to Phase II CC&R's, there is a reciprocal parking agreement recorded for the multi-parcel site. Planning files indicate there are seven (7) remaining excess stalls for shared parking between parcels at the center.

Based on parking requirements for restaurant uses (1 space/3 seats, plus additional 10% for employee parking), the proposed 81 seat expansion of the Banana Leaf restaurant will require a total of 78 parking stalls. Five (5) parking spaces are provided for the 1,100 square foot tenant space based on retail parking ratios. With the 7 excess stalls available to share between parcels from the reciprocal parking agreement, the proposed restaurant expansion leaves a total deficit of 17 required parking spaces.

The applicant submitted a parking study to the city Transportation Planning division for analysis (see attachment A). According to the study, the peak demand for parking occurred during the 12:00 pm to 1:00 pm lunch hour, with the least parking space availability on Tuesday at 12:30 pm. During this time, 311 parking spaces were available, accounting for approximately 37% occupancy throughout the McCarthy Ranch, Phase II section of the shopping center. Based on the parking study, it was determined the average parking lot occupancy is approximately 44% during the peak hours of 11:00am-2:00pm, Monday through Friday. Transportation planning division determined that, with parking demand at less than 50% occupancy during peak hours, there is adequate parking to accommodate Banana Leaf's requirement for 17 additional parking spaces.

Outdoor seating

The applicant is proposing forty-seven (47) outdoor seats, which is an increase of seventeen (17) seats from the previously approved thirty (30) outdoor seats. The previously approved outdoor seating was subject to a 6-month review by the Planning Commission (December 8, 1999) and found to be in conformance with the City's Outdoor Seating Resolution 449.

The applicant is not requesting a change in the originally approved outdoor seating design, which is comprised of tables, seats and umbrellas. The umbrellas are uniform in design, color and made of durable, relatively maintenance-free materials, as required. According to the plans

submitted, a 5-foot aisle-way is provided for pedestrian movement, exceeding the required 4-foot clearance. In addition, the plans indicate the proposed outdoor seating arrangements do not obstruct exits, encroach in front of other businesses or interfere with pedestrian movement.

Staff has not received any complaints regarding outdoor seating and anticipates no problems related to sidewalk clearance based on the plans and past experience with the applicant. In light of these considerations, **staff recommends** a waiver of the 6 month outdoor seating review, unless complaints are received regarding sidewalk blockage or noncompliance with any outdoor seating requirements, in which case the use permit would be reviewed on an as needed basis.

Exterior Modifications

The applicant proposes minor modifications to the exterior building, including the addition of 2 new person doors at the building front and one new person door at the rear of the building that will match the existing building doors. These three (3) new person doors will meet the requirements of the fire division for safety/emergency access. In addition, the applicant is proposing to install a grease interceptor in the landscaped area at the rear of the building that faces Ranch Drive. Currently, the site is well landscaped and maintained with low-to-medium growing shrubs that would screen the above-ground interceptor access. The applicant has agreed to a condition to replant any disturbed landscaping with shrubs of the same species to maintain landscape integrity and ensure the interceptor will not be visible from any views. The proposed grease trap will be located outside City right-of-way and easements.

Neighborhood/Community Impact

The Banana Leaf restaurant is one of several retail and eatery establishments within the McCarthy Ranch, Phase II, shopping center, which has been zoned and designed for such tenants. The hours of operation will remain 11:00 AM to 3:00 PM and 5:00 PM to 9:45 PM Monday through Thursday, extended evening hours to 10:30 PM Friday, 11:00 AM to 10:30 PM Saturday, and closed Sunday. These hours of operation are similar to neighboring uses within the shopping center and immediate area and are not expected to cause an increase in existing noise levels.

The restaurant has been operating without complaints or concerns received regarding noise, odors, parking, or solid waste handling. The main potential community impact would be associated with increase in parking demand. As discussed above, the parking lot is shared and, according to the parking study, more than adequate in size to absorb the additional parking demand of 17 parking stalls. As conditioned, the proposed project is not anticipated to create any significant parking, traffic, odor, noise, or other adverse impacts on the community.

Solid Waste

The applicant currently subscribes to trash and recycling services from BFI for a 4-yard trash bin, 4-yard recycling bin, and has a tallow bin account. Due to the proposed increase of restaurant seating, **staff recommends**, as a condition of approval, an increase in recycling service collection from three (3) times per week to four (4) times per week, and trash service collection from four (4) times per week to five (5) times per week.

Conformance with CEQA

The project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (“Existing Facilities”-“...permitting ...licensing...of existing...private structures...involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination”) of the California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION

Close the Public Hearing. Approve the use permit request P-UA2003-14 and ‘S’ Zone Amendment P-SA2003-101 based on the Findings and Special Conditions of Approval listed below.

FINDINGS

1. The proposed project is consistent with the General Plan in terms of land use and Policies 2.a-I-6 and 2.1-I-3, which encourage economic pursuit that strengthen and promote development and that can resist downturns in any one economic sector.
2. The proposed project, as conditioned, is consistent with the Zoning Ordinance in that a restaurant is a conditional use in the General Commercial “C2” District and it is consistent with its purpose.
3. The proposed use is not expected to generate an increase in noise levels or odors and is not anticipated to affect parking and traffic, therefore, will not be detrimental or injurious to the public health, safety and general welfare of adjacent tenants or surrounding community.
4. The proposed exterior building and landscape modifications will match the exiting building and landscape, therefore, is compatible and aesthetically harmonious with adjacent and surrounding development.
5. The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) of the State CEQA Guidelines.

RECOMMENDED SPECIAL CONDITIONS

1. This Use Permit Amendment No. P-UA2003-14 and ‘S’ Zone Amendment approval is for a 1,100 square foot expansion to the exiting 2,500 square foot Banana Leaf restaurant, increase in seating from 134 to 215 seats (168 indoor/47 outdoor) without meeting parking requirements for 17 spaces, and minor exterior modifications, as shown on approved plans dated September, 24, 2003. (P)
2. The maximum approved seating for this restaurant is 168 indoor seats unless it is determined at time of building permit review that the Building and Life Safety Codes allow fewer seats. Prior to issuance of a certificate of occupancy for this use, a sign measuring at least 8 ½ inches by 11 inches, with a lettering height of at least 3 inches, shall be placed in a conspicuous location near the restaurant from entrance stating “Maximum dining room seating: 168, as per Use Permit Amendment No. P-UA2003-14 granted by the Planning Commission on September 24, 2003.” (P)

3. All previous conditions of approval of this Use Permit (No. 1418) and subsequent amendments shall apply and remain in effect. (P)
4. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved plans. (P)
5. Any increase in seating shall require review and approval by the Planning Commission of a Use Permit-Amendment at a noticed public hearing. Minor changes in the restaurant floor plan may be approved by the Planning Manager. (P)
6. If, at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
7. If, at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
8. All roof-top equipment shall be shielded from view in a manner to the approval of the Planning Commission or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof-top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or a line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)
9. A trash receptacle shall be located in the general vicinity of the outdoor seats. (P)
10. The applicant shall maintain adequate solid waste and recycling service from BFI. If it is determined, through documentation from BFI and/or inspection that such service is inadequate, quantity of containers and/or frequency of pick-up shall be increased as needed. The applicant shall maintain a tallow account that is adequate to meet its needs. (P)
11. If, at any time, there are verified complaints regarding compliance with the outdoor seating or solid waste conditions, this use permit shall be subject to a review by the Planning Commission by a noticed public hearing, with required public hearing materials to be provided by the applicant. (P)
12. Prior to building permit final, any required landscaping shall be replaced and continuously maintained. (P)
13. Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI:
 - a). Increase recycling service from one, 4-yard bin collected three times per week to one, 4-yard bin collected four times per week;
 - b). Increase trash service from one, 4-yard bin collected four times per week to one, 4-yard bin collected five times per week, and;

- c). Continue adequate service level for the tallow account and maintain tallow services inside existing enclosure. (E)
14. After the applicant has started its business, the solid waste service shall be evaluated by BFI commercial representative to determine the adequacy of the service level. If it is found to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. All bins shall be kept out of the public view at all times. (E)
15. No permanent structure is permitted within City right of way or easements. The proposed grease trap shall be located outside City right-of-way and easement. (E)

NOTES TO THE APPLICANT

The following notes pertain to administration of the City codes and ordinances that are not part of the Zoning Ordinance regulations. The applicant shall not consider these notes as approval from any department. Additional requirements may be made prior to permit issuance. These notes are provided to assist in the permit process if approval is granted.

PLANNING DIVISION [For further information regarding the following notes, please contact Kim Duncan at (408) 586-3283]

1. This approval does not include any signs. Any new building signage shall adhere to the sign ordinance and shall be submitted and approved by the Planning Division. (P)

BUILDING DIVISION [For further information regarding the following notes, please contact Veronica Valenti at (408) 586-3241]

1. Applicable codes shall be 2001 California Building Code, CPC, CMC, CEC, Energy Efficiency Standards, and 2002 Milpitas Municipal Code.
2. It is mandated to obtain a business license and certificate of occupancy prior to operating a business.
3. Obtain permits from Health Department and Water Pollution Control prior to applying for a building permit.
4. Each dining room shall be classified as Group A division 3 occupancy group as per 2001 CBC, Sec 303.1.1. Two exits are required for each dining area. Two required exit doors shall be placed a distance apart a half of the diagonal of area served as per 2001 CBC, section 1004.2.4.
5. The assembly occupancy doors shall swing in the direction of exit as per 2001 CBC, Sec. 1003.3.1.5. Exit doors from assembly occupancy shall be provided with panic hardware as per Sec. 1007.2.5 and exit signs as per Sec. 1003.2.8.2
6. People with disabilities accessible parking shall be provided as per 2001 CBC, Sec. 1129B.1. Accessible parking spaces shall be dispersed and located closest to the accessible entrances. One in every eight accessible parking spaces, but not less than one parking space, shall be accessible as per Sec. 1129B.4.2
7. All primary entrances and required exit doors shall be accessible to people with disabilities as per 2001 CBC, Sec. 1114.B.1.3.

8. Every portion of the building in which tables are installed shall be provided with aisles with no less than 36 inches wide, if serving one side, and not less than 44 inches wide if serving both sides per 2001 CBC Section 1133B.6.
9. 2001 CBC Appendix Table A-29-A shall determine the minimum number of plumbing fixtures. All sanitary facilities shall be fully accessible to people with disabilities as per 2001 CBC, Section 1115B.
10. Food preparation areas shall be accessible to people with physical disabilities as per 2001-CBC Sec. 1104B.5.8 and food services aisles and tableware areas as per Sec. 1104B.5.5 and Sec. 1104B.5.6, accordingly.
11. Counters provided for the public and, in general, employee areas must be accessible at least 5%, but not less than one counter (36 in. long) and no more than 28 to 34 inches high per 2001 CBC, Sec. 1122B.

ENGINEERING DIVISION [For further information regarding the following notes, please contact Babak Kaderi at (408) 586-3329]

1. It is the responsibility of the developer to obtain any necessary encroachment permits or approvals from affected agencies or private parties. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division.
2. Prior to building permit issuance, the developer must pay all applicable development fees including, but not limited to, plan check and inspection deposit.
3. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in A Special Flood Hazard Area, Zone X. The zone designation is given for information only.

FIRE DIVISION [For further information regarding the following notes, please contact Jaime Garcia at (408) 586-3369]

1. The 2001 triennial edition of the California Code of Regulations, Title 24 (California Building Standards Code) applies to all occupancies that apply for a building permit on or after November 1, 2002, and remains in effect until the effective date of the 2004 triennial edition.
2. Submitted drawings are not reviewed nor approved for fire permits and construction. These notes are provided to assist with the Fire Department permit process.
3. Fire safety during construction, alteration or demolition of the building shall meet the requirements of Article 87, California Fire Code (CFC).
4. Portable fire extinguishers shall be installed in occupancies and locations as set forth in the code, California Code of Regulations Title 19, Division 1, and Chapters 1 and 3 and as required by the Milpitas Fire Chief. Section 1002.1 CFC.
5. Alterations to the automatic fire sprinkler system and/or the fire detection system requires drawings to be submitted to the Fire Department for review and approval prior to alteration.
6. If alterations are required for the kitchen ventilation hood and duct fire extinguisher system, shop drawings shall be submitted for the hood and duct fire suppression system (by a

licensed installer) to the Fire Department for review and approval prior to start of alteration. Section 1001.3, CFC.

7. A fire extinguisher listed and labeled for Class K fires shall be installed within 30 feet of commercial food heat-processing equipment, as measured along an unobstructed path of travel, in accordance with California Code of Regulations, Title 19, Division 1, Chapter 3.
8. The use of candles and other open-flame decorative devices in places of assembly and drinking or dining establishments shall be in accordance with Section 1109.8, CFC.
9. Drapes, hangings, curtains, drops, and other decorative material, including Christmas trees, that would tend to increase the fire and panic hazard, shall be made from material which is not flammable material or shall be treated and maintained in a flame-retardant condition by means of flame-retardant solution or a process approved by the chief. Section 2501.5, CFC.
10. When required by the Chief, a plan indicating the seating arrangement, location and width of exit ways and aisles shall be submitted for approval, and an approved copy of the plan shall be kept on display on the premises. Section 2501.14, CFC. A seating layout plan will be required for this restaurant.
11. A building housing Group A Occupancies shall front directly on a public street or an exit discharge not less than 20 feet in width. The exit discharge to the public street shall be a minimum 20-foot-wide right-of-way, unobstructed and maintained only as access to the public street. Provide a clean and unobstructed 20 feet wide exit discharge from the main entrance to the public street. The site plan shall show and identify the required 20' exit discharge. No obstructions and/or use of any type are permitted within the designated exit discharge. For example (but not limited to), parking, landscaping, dining and monument sign shall not be installed within the designated exit discharge. Section 303.3, California Building Code.
12. Required means of egress shall be provided with a continuous, unobstructed and undiminished path of exit travel from any occupied point in a building to a public way. Section 1001.1, California Building Code.
13. The minimum clear aisle width shall be 36 inches where seats, tables, counters, furnishings, displays and similar fixtures or equipment are placed on one side of the aisle only and 44 inches when such fixtures or equipment are placed on both sides of the aisle. Section 2501.9.2 CFC. 44 inches net clearance shall be provided at aisles.
14. Exit doors from group A Occupancies shall not be provided with a latch or lock unless it is panic hardware. Section 2501.8.2 California Fire Code.
15. The new dining room shall be provided with a minimum of 2 means of egress. Table 10-A, California Building Code.
16. Any room (or area) having an occupant load of 50 or more where fixed seats are not installed, and which is used for assembly purpose, shall have the capacity of the room posted in a conspicuous place on an approved sign near the main exit from the room. Posting shall be by means of a durable sign having contrasting color from the background to which it is attached. Each dining room shall be provided with an occupant load sign. Section 2501.16 CFC.

17. Exit doors shall swing in the direction of exit travel when serving any hazardous area or when serving an occupant load of 50 or more. Section 1207.2 CFC.
18. Provide exit signs. Exit signs conforming to the requirements of the California Building Code shall identify the path of exit travel to and within exits in a building. Section 1212, CFC.
19. Graphics, illuminations, and power supply of exit signs shall be in accordance with Sections 1212.3, 1212.4, 1212.5, CFC.
20. The means of egress shall be illuminated at any time the building is occupied with light intensity of not less than 1-foot candle at the floor level. In the event of a failure, illumination shall be automatically provided from an emergency system such as storage batteries or on-site generator set and should be installed in accordance with the National Electrical Code. Sections 1003.2.9.1 and 1003.2.9.2 California Building Code, and Section 1211, CFC.
21. The maximum flame-spread class of finish materials used on interior walls and ceilings shall be per Section 804.1, California Building Code.
22. No approval for any hazardous materials under this review.
23. Complete plans and specifications for all aspects of Fire-Protection systems shall be submitted to the Fire Department for review and approval prior to system installation. Section 901.2.2 and 1001.3, California Fire Code.

MEMORANDUM

*5



Department of Planning, Recreation & Neighborhood Services

To: Kim Duncan, Planning
From: Janice Nadal, Transportation Planning *JN*
cc: Joe Oliva, Transportation Planning
Subject: **Banana Leaf Applicant Proposal- Parking Study**
Date: September 5, 2003

As per Transportation Planning's request, Banana Leaf Restaurant, 182 Ranch Drive (located in McCarthy Ranch shopping center), performed a parking study during peak operational hours of 11:00am to 2:00pm. An evening parking study was not required.

In order for Banana Leaf Restaurant to add additional seating from 134 seats to 215 (including outdoor seating), there must be a total of 78 spaces available. The current existing restaurant configuration requires Banana Leaf to provide 48 additional spaces. With the expansion into the adjacent space, 178 Ranch Drive, 6 spaces are available for the restaurant use. From researching the current required parking spaces for the McCarthy Ranch West section, there are 7 remaining stalls available, leaving Banana Leaf Restaurant to provide 17 additional available spaces.

From the attached Parking Study, the results indicated the peak demand for parking occurred during the 12:00pm-1:00pm lunch hour with the least parking space availability on Tuesday at 12:30pm with 311 spaces available, approximately 37% occupancy amongst the entire McCarthy Ranch West section of the shopping center.

From the analysis, the average occupancy is approximately 44% during the peak hours of 11:00am-2:00pm, Monday-Friday. With the parking demand at less than 50% occupancy during the peak hours, Transportation Planning concludes there is adequate parking to accommodate Banana Leaf's requirement for 17 additional parking spaces as a result of their expansion into 178 Ranch Drive.

If you have any questions, feel free to contact me at x3291 or Joe Oliva at x3290.

jn: attachment

McCarthy Ranch West Available Parking Report

Parking spaces that are available from Monday to Friday during 11:00am to 2:00pm are:

	Monday	Tuesday	Wednesday	Thursday	Friday
11:00am	589	542	588	668	589
11:30am	492	428	472	570	463
12:00pm	421	331	364	416	320
12:30pm	422	311	340	393	298
1:00pm	435	386	380	446	354
1:30pm	543	508	517	511	431
2:00pm	588	528	532	554	476

Banana Leaf, Inc.
182 Ranch Dr.,
Milpitas, CA 95035

Planning Commission
Planning Division
455 E. Calaveras Blvd.,
Milpitas, CA 95035

Re: Condition Used Permit Amendment
Proposed Project: Banana Leaf @ 182 Ranch Dr., Milpitas, CA 95035

Dear Planners,

Banana Leaf is a restaurant that serves authentic Malaysian and Singaporean food, such as different varieties of curry, satay, roti prata and more.

Along with the entree, Banana Leaf will also serve Ice Chendol, Malay coffee, Malay tea, soda and juice. We're having beer and wine available for our customers as well. And, after the main course, delicious Malay dessert will also be available!

As for the Storm Water Control Plan, there is no new structural been done to the premises, everything remains the same as before. The mop sink remained in the same location and the sanitary waste water would run from the same mop sink to the sewage line.

We are requesting to increase the number of inside-seating from 104 seats to 168 (including waiting seatings), and outside-seating from 30 to 47. That brings a total of 215 seats (the outside furnitures such as chairs and tables will remain the same design). In addition, we will add a beer & wine bar which consists of 100 square foot (bar stools are included in dinning (inside) seating); and a to-go counter which consists of 7 square foot.

Please review and consider this proposed project and should you have any questions, please do not hesitate to call me at 408-420-8008 or 408-719-9811.

Thank you.

Sincerely Yours,


Kar (Kay) Tan

(Date: Sept. 15th, 2003)

McCarthy Ranch Marketplace Phase II

Joint Use Of Parking -- Status of Excess Parking

The Marketplace Phase II development (7 parcels) has 238 excess parking stalls, which are available to "share" among the 7 parcels, as needed to comply with parking ordinance requirements. There is a reciprocal parking agreement within the recorded CC&R's for this development.

Tenant:	Explanation:	#of Stalls Borrowed:	#of Excess Stalls Remaining:
"Hometown Buffet" Parcel 3 (Building E) 212 Ranch Dr.	Require add'l parking to accommodate seating; 356 indoor seats approved total; 130 total parking req'd, 50 allocated based on GFA; UP#1333 PC 2-28-96	80	158
"Romano's Macaroni Grill" Parcel 7 (Building K) 110 Ranch Dr.	Require add'l parking to accommodate seating; 266 indoor seats approved total; 97 stalls total req'd, 64 stalls on-site; UP#1347 PC 7-10-96	33	125
"Stevens Philly Cheesesteaks" Parcel 5 (Building H) 190 Ranch Dr.	Require add'l parking to accommodate seating; 23 total stalls req'd, 8 allocated based on GFA (40 indoor + 12 outdoor = 52 seats app'd total); UP#1362 PC 8-28-96	15	110
"Una Mas" Parcel 5 (Building H) 186 Ranch Dr.	Require add'l parking to accommodate seating; approved 95 seats total (75 indoor and 20 outdoor); 39 stalls req'd total, 10 allocated based on GFA; UP#1368 PC 9-25-96	29	81
"On the Border" Parcel 4 (Bldg G) 260 Ranch Drive	Require add'l parking to accommodate seating; approved 312 seats total (261 indoor and 51 outdoor); 114 stalls req'd, 83 stalls on-site; UP#1372 PC 11-13-96	31	50
"Subway Sandwiches" 176 Ranch Drive (Bldg J, Parcel 6)	Require add'l parking to accommodate seating; approved 32 indoor seats (no outdoor), 111 sq. ft. take-out area; 13 stalls req'd total, 6 stalls allocated based on GFA; UP#1427 Planning Commission 8-13-27	7	43

"Banana Leaf" (formerly "Golden Bagel")
182 Ranch Drive (Building J, Parcel 6)

2/13/02-Require add'l parking to accommodate seating-104 indoor+30 outdoor (134 total)-req. 10 additional parking stalls borrowed from pool.

10

7

4/28/99-Require add'l parking to accommodate seating; approved 107 seats (87 indoor + 20 outdoor), 96 sq. ft. take-out area; 38 stalls req'd total, 12 stalls allocated based on GFA; 26 stalls borrowed from pool; [Parcel 6, Bldg J had 21 excess stalls to start out, but those have all been allocated, and Banana Leaf had to get 12 stalls from adjacent parcels].

26

17

8/13/92-UP#1418 Planning Commission 8-13-97 (appr'd 54 seats) & Amendment (appr'd total of 107) 4-28-99; Amendment (appr'd total of 134 seats) 2/13/02

RESOLUTION NO. 449

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS APPROVING GUIDELINES FOR OUTDOOR SEATING AT RESTAURANTS

WHEREAS, the City Planning Commission regards the appearance of restaurants in the city as being important to the community, and its environs, and

WHEREAS, the City Planning Commission recognizes the desires of those businesses and patrons, to the restaurants, to have this type of outdoor service in addition to indoor seating, and

WHEREAS, the Planning Commission decrees that these guidelines are adopted in the interest of creating economic vitality architectural compatibility through design and maintaining the public's health and welfare; however, the spirit and intent of the guidelines is of utmost importance, and any restaurant seeking approval for outdoor seating will be reviewed using this resolution as a guide.

NOW, THEREFORE, BE IT RESOLVED that the following guidelines shall apply to those restaurants who have outdoor seating:

1. Wherever possible, outdoor seating areas shall be within an enclosed area. Fences or walls shall be compatible in style and material with the main structure on a site.
2. To avoid the monotony of long solid walls and fences around the perimeter of the outdoor seating area, variation in height, texture and color of the wall or fence is recommended.
3. Outdoor seating shall not encroach in front of any other business except that which the Use Permit applies.
4. Outdoor seats or other obstacles shall not interfere with any pedestrian movement within a shopping center and shall have aisle-ways a minimum of four (4) contiguous feet in width. It shall be the responsibility of the business to ensure that the minimum four (4) foot aisle-ways are maintained at all times.
5. Outdoor seats shall be separated from any pedestrian and automobile traffic paths and shall minimize conflict areas for safety.
6. Outdoor seats placement shall provide for walkways to connect adjacent parking lots to building entrances.
7. Outdoor seats shall not interfere with any designated bicycle parking area or facility.
8. Outdoor seating shall be located away from any service/loading areas.
9. All tables, seats and umbrellas shall be uniform in design, sturdy and be of a durable quality, and relatively maintenance free.